

1 CHRISTOPHER COOKE, CA Bar #142342
2 STEPHEN S. WU, CA Bar # 205091
3 COOKE KOBRECK & WU LLP
4 177 Bovet Road, Suite 600
5 San Mateo, CA 94402
6 Email: ccooke@ckwlaw.com
7 swu@ckwlaw.com
8 Tel: (650) 638-2370
9 Fax: (650) 341-1395
10 Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MEI-FANG LISA ZHANG, BAY AREA) Case No.: C-07-04946 JSW
AFFORDABLE HOUSING, LLC, XUE-) (Related to C-05-02641 JSW)
HUAN GAO, YANG-CHUN ZHANG,)
CAROL JIAN DENG, and HAO LIANG,) **PLAINTIFFS' CASE MANAGEMENT**
) **STATEMENT**
Plaintiffs,
vs.
WEI-MAN RAYMOND TSE, RUN PING)
ZHOU a.k.a. FLORA ZHOU, THERESA)
WONG, JAMES YU, BILL SHU WAI MA,)
MOLLY LAU, VICTOR SO, JIAN XIAO,)
CHRIST INVESTMENT SERVICE INC., CIS)
SERVICE, INC., PACIFIC BEST GROUP)
LTD. a.k.a. PACIFIC BEST COMPANY)
LTD., and SOUTH CHINA INVESTMENT)
INC.,
Defendants.)

Pursuant to Local Rule 16-9, Plaintiffs submit this Case Management Statement.

PRELIMINARY STATEMENT

Local Rule 16-9(a) provides, "If one or more of the parties is not represented by counsel, the parties may file separate case management statements." In this case, none of the Defendants

1 is represented by counsel. Accordingly, pursuant to Local Rule 16-9(a), Plaintiffs submit this
2 statement as a separate Case Management Statement.

3

4 **1. JURISDICTION AND SERVICE**

5 (a) The basis for the Court's subject matter jurisdiction over Plaintiffs' claims in this
6 case is federal question jurisdiction. Plaintiffs assert claims under RICO and the Commodities
7 Exchange Act, 7 U.S.C. § 1 et seq. The Court has supplemental jurisdiction over its state law
8 claims under 28 U.S.C. § 1337(a).

9 (b) Plaintiffs are unaware of any issues regarding personal jurisdiction or venue.

10 (c) Two parties remain to be served: Defendants Theresa Wong and James Yu. The
11 process for service on Theresa Wong by publication is underway. The San Francisco Chronicle
12 began publication of the summons on March 22, 2008, and the Sing Tao Daily began publication
13 of the Summons on March 24. The summons will appear weekly on three consecutive weeks
14 after these initial publication dates. Plaintiffs are preparing a renewed administrative motion for
15 leave to issue subpoenas explaining the reasons why legal authority permits subpoenas to be
16 issued to James Yu's employer, the California Department of Motor Vehicles ("DMV").

17 (d) Plaintiffs intend to complete service of process by May 31, 2008, pursuant to the
18 Court's March 14, 2008 order.

19

20 **2. FACTS**

21 This is an action, both in law and in equity, brought by victims of commodities fraud
22 under the Racketeer Influenced Corrupt Organization Act ("RICO") and the Commodity
23 Exchange Act ("CEA"). Plaintiffs are individuals and a small business in the San Francisco
24 Area and in particular are members of the San Francisco Chinese community. Defendants are
25 individuals and the businesses they operated in San Francisco, which purported to conduct
26 foreign currency futures trading on behalf of clients for investment purposes. Plaintiffs invested
27 large sums of money with Defendants for foreign currency futures trading in response to
28 personal solicitations and advertisements in Chinese language newspapers.

1 Defendants' businesses, however, were wholly fraudulent. Defendants opened an office,
2 used telephone trading telephone lines in Hong Kong, created computerized records, faxed and
3 emailed written reports of accounts to customers, provided receipts for funds received, and in
4 some cases returned modest amounts of investor moneys, all for the purpose of creating the
5 appearance of a legitimate foreign currency futures trading business. Defendants, however,
6 never actually conducted any foreign currency futures trading, and simply stole the funds that
7 investors transferred to them for their personal use.

8 Since Defendants have not entered an appearance, there are no factual issues in dispute at
9 this time.

10

11 **3. LEGAL ISSUES**

12 Since none of the Defendants has entered an appearance in this matter, there are no
13 disputed points of law in this case to date.

14

15 **4. MOTIONS**

16 (a) The following motions have been submitted in this matter:

17 (i) Administrative Motion to Consider Whether Cases Should be Related to
18 have *United States Commodities Futures Trading Commission, et al. v. National*
19 *Investment Consultants, Inc.*, No. C 05-02641 JSW considered a related case. The Court
20 granted this motion.

21 (ii) Request for Entry of Default Against Defendants Wei-Man Raymond Tse,
22 Jian Xiao, and Victor So Under Fed. R. Ci. P. 55(a). The Clerk entered a default against
23 these Defendants.

24 (iii) Plaintiffs filed a motion on January 10, 2008 seeking leave to issue
25 subpoenas in ad of service of process on Theresa Wong and James Yu and seeking an
26 extension until March 31, 2008 to complete service of process. The Court granted the
27 motion in part, permitting the extension but denying without prejudice leave to issue
28 subpoenas.

1 (iv) On February 11, 2008, Plaintiffs filed a motion for entry of default against
 2 Defendants Run Ping Zhou a.k.a. Flora Zhou, Bill Shu Wai Ma, Christ Investment
 3 Service Inc., CIS Service, Inc., Pacific Best Group Ltd. a.k.a. Pacific Best Company Ltd.,
 4 and South China Investment Inc. The Clerk has not yet entered default in response to the
 5 motion, and the Plaintiffs respectfully request that the Court consider this motion.

6 (v) On March 10, 2008, Plaintiffs filed a second administrative motion
 7 relating to service of process. Plaintiffs sought leave to serve Theresa Wong by
 8 publication, in light of their inability to find an address for her. They also sought leave to
 9 issue a subpoena to California DMV to find the home address of James Yu, given his
 10 disability and absence from his workplace at the California DMV. The Court granted the
 11 motion in part, permitting Plaintiffs to serve Theresa Wong by publication. Nonetheless,
 12 the Court denied leave to issue a subpoena to the DMV without prejudice, stating that
 13 Plaintiffs would need to show that service of such a subpoena would be proper.

14 (b) Anticipated motions.

15 (i) Plaintiffs intend to file a renewed motion seeking leave to issue a
 16 subpoena to the California DMV to discover the home address of James Yu, and in the
 17 motion, Plaintiffs intend to provide the Court with their reasoning and authority
 18 explaining why service of a subpoena on the DMV would be proper.

19 (ii) Additional requests for entry of default against Defendants Theresa Wong
 20 and James Yu following completion of service of process.

21 (iii) Plaintiffs anticipate filing a single motion for default judgment as against
 22 all Defendants, after service is completed and defaults have been entered against every
 23 Defendant.

24 **5. AMENDMENT OF PLEADINGS**

25 Plaintiffs do not anticipate adding additional claims at this time. They do, however,
 26 reserve the right to add additional parties to this matter if discovery or investigation reveals
 27 additional parties involved in the Defendants' fraudulent scheme. At the moment, however,
 28 Plaintiffs do not wish to add any additional parties to this action.

1

2 **6. EVIDENCE PRESERVATION**

3 Plaintiffs are individuals who do not have any automated document destruction programs
4 or processes. They have preserved emails received from Defendants, upon instruction from
5 counsel. Plaintiffs' counsel has sent letters to the served Defendants instructing them to preserve
6 electronically stored information.

7

8 **7. DISCLOSURES**

9 Because none of the Defendants has actively participated in this Case, Plaintiffs have
10 received no initial disclosures under Fed. R. Civ. P. 26, and there are no represented parties to
11 which it can make its own initial disclosures.

12

13 **8. DISCOVERY**

14 No discovery has been taken to date, since none of the Defendants has actively
15 participated in this case. It remains to be seen whether any Defendants will seek to set aside
16 defaults, but assuming they do not, Plaintiffs intend to seek discovery concerning the assets held
17 by Defendants. Plaintiffs do not propose any limitations or modifications of the discovery rule.
18 Given that Defendants have not participated in this case, no discovery plan is necessary for the
19 exchange of information.

20

21 **9. CLASS ACTIONS**

22 This action is not a class action.

23

24 **10. RELATED CASES**

25 This case is related to *United States Commodities Futures Trading Commission, et al. v.*
26 *National Investment Consultants, Inc.*, No. C 05-02641 JSW.

1 **11. RELIEF**

2 Plaintiffs seek monetary damages, punitive damages, and injunctive relief. Plaintiffs seek
3 compensatory damages in an amount to be proven in connection with trial or the entry of default
4 judgment against Defendants, but in excess of \$321,149, which is the amount Plaintiffs invested
5 with Defendants. Plaintiffs also seek interest on Plaintiffs' capital from the dates of their transfer
6 to Defendants. Compensatory damages should be trebled under 18 U.S.C. § 1964. Further,
7 Plaintiffs seek the costs of suit incurred in this case and attorneys' fees. Finally, Plaintiffs seek
8 exemplary and punitive damages according to proof.

9

10 **12. SETTLEMENT AND ADR**

11 Because Defendants have not participated in this case, Plaintiffs have been unable to
12 discuss settlement or ADR with Defendants. Accordingly, Plaintiffs believe an ADR plan would
13 be premature at this time.

14

15 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

16 Plaintiffs do not consent to have a magistrate judge conduct all further proceedings
17 including trial and entry of judgment.

18

19 **14. OTHER REFERENCES**

20 Plaintiffs do not anticipate that this case will be suitable for other references.

21

22 **15. NARROWING OF ISSUES**

23 Because Defendants have not participated in this case, Plaintiffs do not believe that issues
24 can be narrowed by agreement. Plaintiffs do, however, anticipate seeking default judgments
25 against all Defendants.

1 **16. EXPEDITED SCHEDULE**

2 Plaintiffs anticipate seeking defaults and default judgments against all Defendants,
3 seeking discovery concerning the assets held by Defendants, and collecting those assets.
4 Therefore, unless Defendants seek to set aside these defaults, this case can be handled on an
5 expedited basis with streamlined procedures.

6

7 **17. SCHEDULING**

8 Because no Defendants have participated actively in this case, and Plaintiffs do not
9 anticipate any such participation, Plaintiffs do not believe it is necessary at this time to create a
10 schedule of deadlines for various mechanisms of the adversary process.

11

12 **18. TRIAL**

13 Given the apparent defaults of all Defendants in this matter, Plaintiffs do not anticipate a
14 trial in this case. Were the Defendants to contest the case, however, Plaintiffs anticipate a jury
15 trial of 5 days in length.

16

17 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

18 Plaintiffs have already filed a Certification of Interested Entities or Persons as required
19 by Local Rule 3-16. Plaintiffs reiterate that as of this date, other than the named parties, there is
20 no interest to report on a Certification of Interested Entities or Persons.

21

22 **20. OTHER MATTERS**

23 None.

24 Respectfully Submitted,

25 COOKE, KOBREICK, & WU LLP

26 Dated: April 4, 2008

27 /s/
28 By: _____

STEPHEN S. WU
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Stephen S. Wu, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action. I am an attorney in the law firm of Cooke Kobrick & Wu LLP, 177 Bovet Road, Suite 600, San Mateo, CA 94402.

On April 4, 2008, I served Defendants Wei-Man Raymond Tse, Jian Xiao, Victor So, Molly Lau, Bill Shu Wai Ma, Run Ping Zhou, Christ Investment Service Inc., CIS Service, Inc., and South China Investment Inc. with this

PLAINTIFFS' CASE MANAGEMENT STATEMENT

by placing a true copy thereof, first class postage prepaid, in the United States mail, for delivery to the following Defendants at the following addresses:

Mr. Wei-Man Raymond Tse
555 Montgomery Street, Suite 610
San Francisco, CA 94111

Mr. Jian Xiao
737 Chester Street
Oakland, CA 94607

Mr. Victor So
c/o Legendary Palace
708 Franklin Street
Oakland, CA 94607

Ms. Molly Lau
PFC, US Army
A FSC, 70th BSB
Unit #15093
Camp Casey, South Korea
APO AP 96224

Mr. Bill Shu Wai Ma
Christ Investment Service Inc.
CIS Service, Inc.
1945 Kirkham Street
San Francisco, CA 94122

Ms. Run Ping Zhou
South China Investment Inc.
3567 Kimberly Road
Cameron Park, CA 95682

I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct.

Dated: April 4, 2008

/s/

STEPHEN S. WU